REMARKS

Reconsideration and withdrawal of the rejections set forth in the Final Office Action dated August 3, 2011, are respectfully requested in view of this amendment. By this amendment, claim 1 has been amended and new claims 9-13 have been added. Claims 1-13 are pending in this application and are presented for examination.

Claim 1 has been amended to describe the tube as the type of tube which responds contraction by increasing its section to accommodate cables, and upon release of the force to contract the tube, contracting, and to describe the plurality of threads as having a rectangular, oval or polygonal cross-section. New claims 9 and 10 describe the cover factor K of not less than 80% as set forth in the Specification. New claim 11 is written in independent form and describes a bundle for covering a protected bundle of cables and similar items, describes the tube as comprising a plurality of monofilament threads, and describes a K factor of not less than 80%. New claims 12 and 13 depend from claim 11, and include the descriptions of claims 2 and 3.

It is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132, and the scope of the claims was not altered or reduced by this amendment.

In the Final Office Action, the Examiner rejected claims 1 and 3-5 under 35 U.S.C. §102(b) as anticipated by U.S. Patent Application Publication No. 2002/0045395 A1 to Lintecum, et al. (hereinafter *Lintecum*). Claim 2 was rejected under 35 U.S.C. 103(a) as obvious over *Lintecum*. Claims 6-8 are rejected under 35 U.S.C 103(a) as obvious over *Lintecum*, taken in view of U.S. Patent Application Publication No. 2002/0066491 to Lively (hereinafter *Lively*). These rejections, as applied to the amended claims, are respectfully traversed.

Rejections under 35 USC §102

Claims 1-5 were rejected under 35 USC §102(b) as anticipated by *Lintecum*. *Lintecum* is cited as disclosing a tube with a plurality of threads that are braided having an oval cross section,

therefore a thickness of the cross section of the threads that is greater than a thickness of a perpendicular cross section. The claimed aspect of the tube being protective was deemed to be inherent.

Response

This rejection is traversed on the legal basis set forth in Applicants' response of June 21, 2011.

The claims describe a tube, the plurality of threads having a rectangular, oval or polygonal cross-section:

> "... a plurality of threads braided, knit-braided, or knitted to one another ... the thickness ... along a first axis is substantially greater than ... along a second axis which is perpendicular to the first; and the plurality of threads having a rectangular, oval or polygonal cross-section."

Lintecum fails to show this structure, and instead shows bicomponent yarn. Tubes are described at *Lintecum's* paragraph [0070] but there is no suggestion that, "the plurality of threads having a rectangular, oval or polygonal cross-section." Instead, descriptions in *Lintecum's* paragraph [0070] are suggestive of use in making garments and the like ("rated for visual effects and hand"). The description goes on to indicate that the tubes are configured to be part of a further knitted workproduct:

> "... Fabrics were woven with these synthetic polymer yarns and observed for hand, stretch and recovery, and stratified visual effects. ... " (*Lintecum* at paragraph [0072].)

Accordingly, this cannot reasonably be interpreted as "the plurality of threads having a rectangular, oval or polygonal cross-section."

It is further pointed out that the *Lintecum* disclosure is directed to a different type of product and as such is not suggestive a protective tube as set forth by Applicants which is capable of expanding upon compression to accept cabling. Therefore, *Lintecum* cannot be used

to modify a protective tube capable of contracting by providing, "the plurality of threads having a rectangular, oval or polygonal cross-section.

Therefore, Applicants submit that the Examiner has failed to show where each and every feature of the presently claimed subject matter is purportedly disclosed, taught or suggested in the cited prior art, which is the test for anticipation under 35 U.S.C. §102.

In view of the foregoing, withdrawal of the rejection is respectfully requested.

Rejections Under 35 U.S.C. §103

The Examiner rejected claim 2 under 35 U.S.C. 103(a) as obvious over *Lintecum*. Claims 6-8 are rejected under 35 U.S.C 103(a) as obvious over *Lintecum*, taken in view of *Lively*.

Response

This rejection is traversed on the legal basis set forth in Applicants' response of June 21, 2011.

Lintecum is acknowledged as not describing a thickness of a cross section that is 1.5 greater than a perpendicular cross section. It is pointed out, however, that *Lintecum* also fails to show Applicants' feature of the plurality of threads having a rectangular, oval or polygonal cross-section." (Applicants' claim 1.) Instead, the rejection under 35 USC §103(a) alleges that it would have been obvious to a thickness ratio depending on the desired strength of the end product.

It is respectfully submitted that a modification of *Lintecum* to provide a cabling sheath with a rectangular, oval or polygonal cross-section would not be an obvious modification.

This assertion fails to meet the *KSR* test because the configuration of the threads is a basic part of the design of the protective tube (not "a design step well within the grasp of a person of ordinary skill in the relevant art"). In this regard, *Lintecum* specifies that the yarns are "'self-bulking' because they do not require a mechanical draw twisting or texturing process in

bulking these types of fibers. (*Lintecum* at paragraph [0035].) This is more than a superficial difference; it is a basic function of the *Lintecum* yarn structure.

Claims 6-8

Lively is cited as showing polyethylene, polypropylene, or phenylene polysulphide in threads. It is respectfully submitted that neither reference shows the relevant features for which they are cited. As mentioned, in Applicants' response of June 21, 2011, *Lintecum* fails to show or suggest cross-sectional widths which differ. *Lively* fails to show the cited materials or other features used in a threaded sheath because *Lively* does not even mention threads. Instead, *Lively* describes some sort of pipe coating.

Therefore, there can be no suggestion under 35 USC §103(a) to modify threads according to the *Lively* disclosure because *Lively* does not describe threads. It is a pipe. This applies to both the concept of, "... the thickness of the cross section of the threads along the axes, as well as the materials constituting the threads.

Claims 9-13

Newly-added claims 9-13 describe features related to the cover factor K of not less than 80% and the construction of a tube made from monofilament threads. It is submitted that these claims distinguish Applicants' subject matter for the reasons cited above, as well as based on these additional features.

It is therefore respectively submitted that the rejection under 35 U.S.C. §103(a) should be withdrawn and that the case be passed to issuance.

# # # #

CONCLUSION

In light of the foregoing, Applicants submit that the application is in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner call the undersigned.

Respectfully submitted,
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